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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,529	12/12/2003	Jon Robert Scott	13869.40	1584
22913	7590	07/14/2004	EXAMINER	
WORKMAN NYDEGGER (F/K/A WORKMAN NYDEGGER & SEELEY) 60 EAST SOUTH TEMPLE 1000 EAGLE GATE TOWER SALT LAKE CITY, UT 84111			SZUMNY, JONATHON A	
		ART UNIT	PAPER NUMBER	
		3632		

DATE MAILED: 07/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/735,529	SCOTT ET AL.
	Examiner Jon A Szumny	Art Unit 3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on 12 December 2003.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 1-28 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-28 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 12 December 2003 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>5/13/04</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

This is the first office action for application number 10/735,529, Support Apparatus or Accessory for Ladder, filed on December 12, 2003.

***Information Disclosure Statement***

Receipt is acknowledged of Form PTO-1449, Information Disclosure Statement, which has been reviewed by the Examiner.

***Specification***

The disclosure is objected to because of the following informalities:

On page 7, line 20, "traverse" should be --traverses--;

On page 11, the last line, "supports apparatus" should be --support apparatuses--;

On page 13, line 8, "flange portion 46" is not shown;

On page 14, line 16, "round" should be --around--.

Appropriate correction is required.

***Claim Objections***

Claim 11 is objected to because of the following informalities:

In line 2, "secured" should be --is secured--.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter that the applicant regards as his invention.

Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 20 specifies that "said locking ring comprises a bent portion...". However, in claim 19, the locking means can comprise either a "locking ring" or a "locking pin". Therefor, if the locking means was chosen to be a "locking pin" in claim 19, the "said locking ring" of claim 20 would lack antecedent basis. For instance modifying claim 19 to comprise only the "locking ring", and then adding a new claim the refers back to claim 18 the includes only the "locking pin" would clarify this situation.

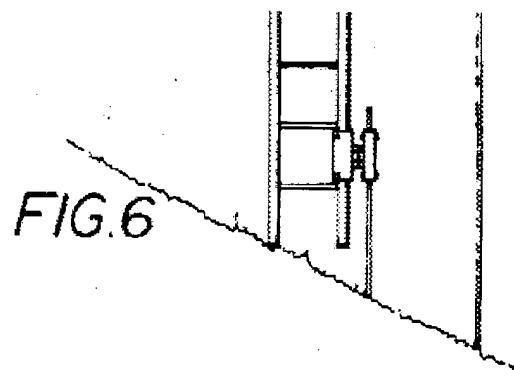
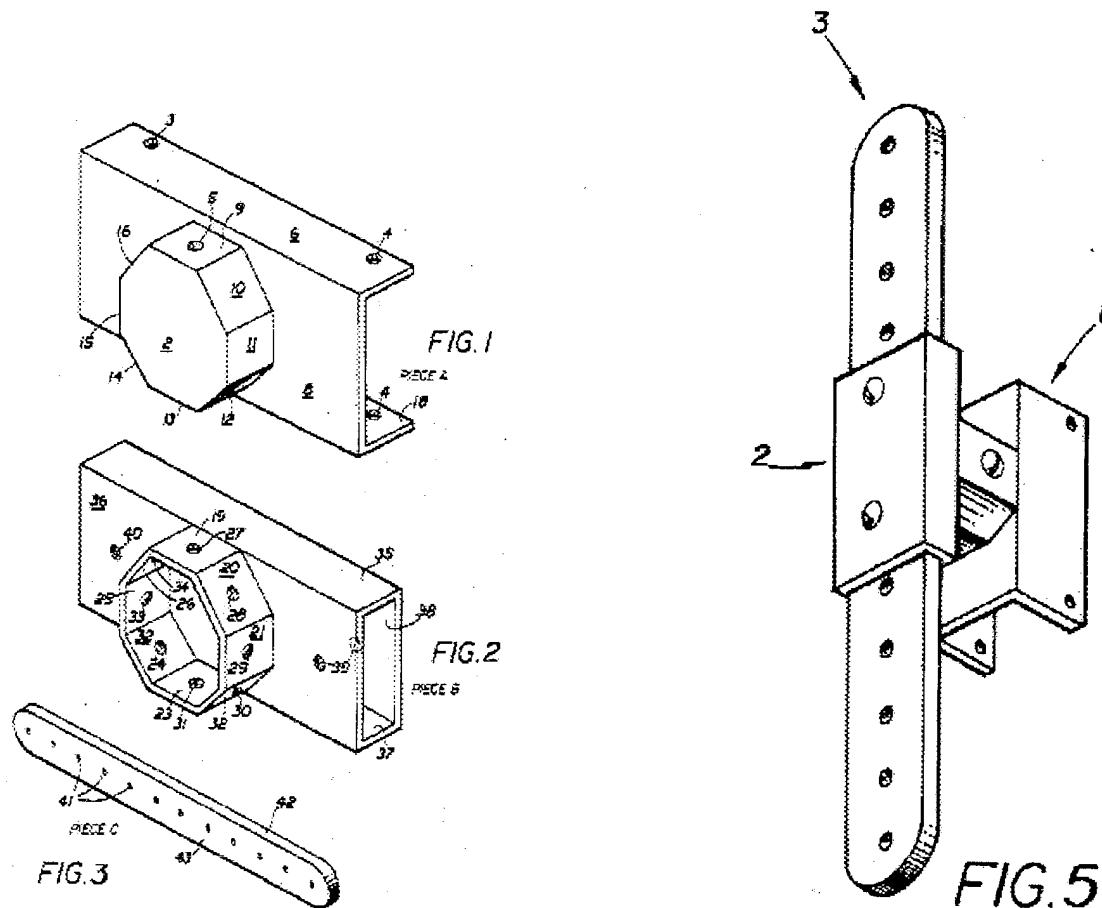
***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

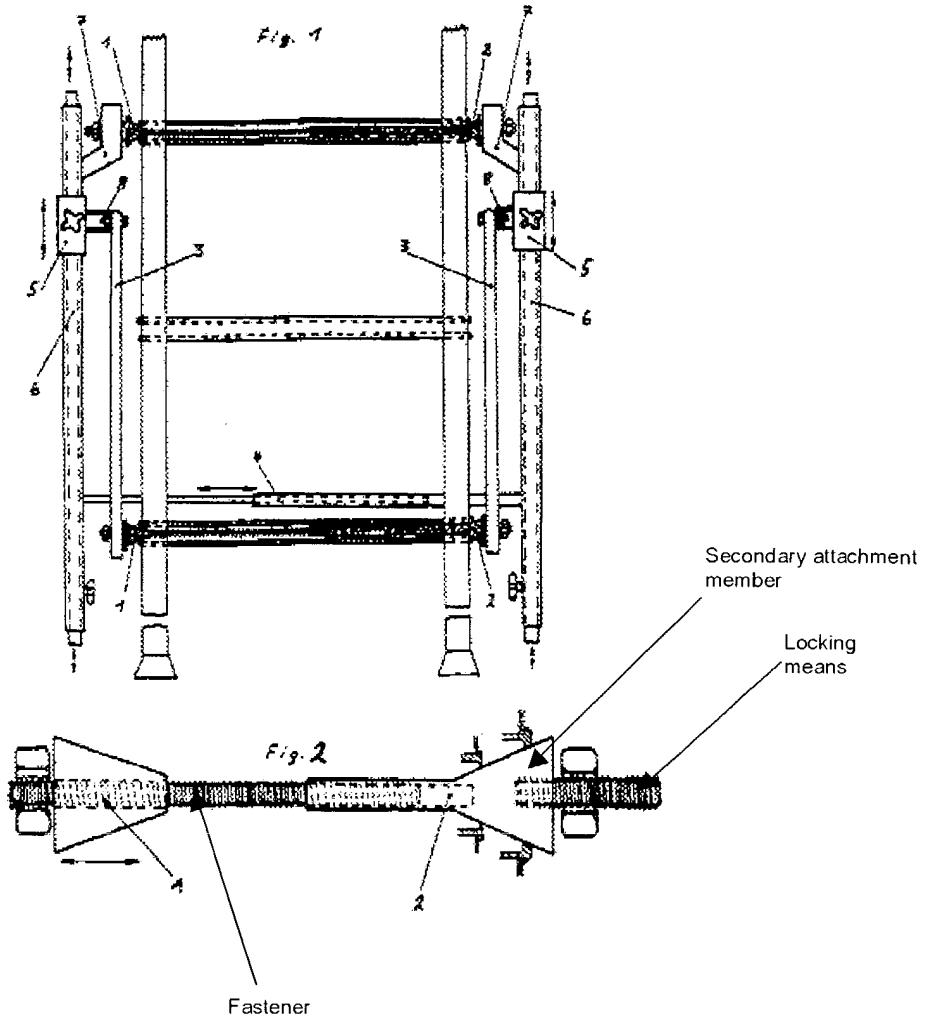
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8, 10, 14, 15 and 21-24 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 4,284,172 to Cohen.



Cohen '172 discloses a support apparatus (above) including a body (35-38, 42, 43), a primary attachment member (19, 20, 21, etc) connected to the body/adjustable length body, a secondary attachment member (6, 8, 9, 10, 11, etc.) secured to a side rail of a ladder, and locking means (bolt, see column 2, lines 25-37), wherein the body comprises a fixed component (35-38) to which the primary attachment member is connected and a movable component (42,43) capable of moving relative to the fixed component, wherein the fixed component comprises guiding means (within 35-38) in the form of a channel/housing/elongate continuous enclosed hollow tube, wherein the movable component is an inner member capable of telescopic movement relative to the housing, wherein the movable component is securable at a desired position relative to the fixed member by securing means comprising a securing pin (column 2, line 46) located on the fixed component (when attachment members are engaged) and a mating aperture (41) located on the movable component, wherein the securing pin when inserted into the mating aperture secures the movable component relative to the fixed component, wherein the primary and secondary attachment members engage in a male-female interaction, wherein the primary attachment member is a socket and the secondary attachment member is a peg.

Claims 1 and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 6,382,353 to Laug.



Laug '353 discloses a support apparatus (figures 1,2) including a body (5,6), a primary attachment member (7) connected to the body/adjustable length body, a secondary attachment member (above) secured to a side rail of a ladder, and locking means (above), wherein the secondary attachment member is secured by a fastener (above) that is adapted to extend at least through the side rail of the ladder, wherein the fastener is a rod adapted to traverse the ladder from one side rail to another side rail, wherein the rod is adapted to be located within an adjacent rung of the ladder.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9, 16-19, 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen '172.

Regarding claim 9, Cohen '172 teaches the previous invention wherein the primary attachment member is connected to the body (see figure 2), but fails to specifically teach the connection to be via welding. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have welded the primary attachment member and the body since it is well known in the art that doing so is common means of providing a sturdy connection between two parts.

With respect to claims 16-19 and 25-28, Cohen '172 teaches the previous invention wherein the peg is slidable within the socket, wherein the locking means is a fastener insertable through co-aligned apertures (5, 27, 28, etc.) in the peg and socket, wherein the locking means is a locking pin. However, Cohen '172 fails to teach vice versa wherein the peg is located on the primary attachment member and the socket is located on the secondary attachment member. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have reversed the parts so that the peg is located on the primary attachment member and the socket is located on

the secondary attachment member since a reversal of parts is held to be an obvious expedient. See *In re Gazda*, 219 F.2d 449, 104 USPQ 400 (CCPA 1955).

Claim 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen '172 in view of Carlson '643.

Cohen '172 discloses the previous invention failing to specifically teach a locking ring including a bent portion adapted to be inserted through the socket aperture and securable within the peg aperture to thereby retain the socket and peg together. However, Carlson '643 divulges peg (8) insertable into a socket (6) wherein a locking ring (9,10,11, a "ring" is defined in Merriam Webster's Collegiate Dictionary - 10<sup>th</sup> Edition as being "a circular band for connecting" while "circular" is defined as "of or relating to a circle or its mathematical properties (a circular arc)", so clearly, 9,10,11 could be referred to as a locking ring) comprises a bent portion (11) adapted to be inserted through a socket aperture and securable within a peg aperture to thereby retain the socket and peg together. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have replaced the locking means of Cohen '172 with that of Carlson '643 so as to provide a convenient alternate locking means.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hunt '536, Lazear '257, Baumann '487, Gerber '078, Batten '797, Boughner '397, Lanzafame '656, Baker '306, Beck et al. '744, George '762 and Stoneburg '306 divulge various support apparatuses for ladders.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon A Szumny whose telephone number is (703) 306-3403. The examiner can normally be reached on Monday-Friday 8-4.

The fax phone number for the organization where this application and proceeding are assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Jon Szumny  
Patent Examiner  
Technology Center 3600  
Art Unit 3632  
July 9, 2004